

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE

**ORDER NO. R9-2004-0389
WASTE DISCHARGE REQUIREMENTS**

FOR

**DS WATERS OF AMERICA, LP
LAKESIDE BOTTLING PLANT
SAN DIEGO COUNTY**

TABLE OF CONTENTS

WASTE DISCHARGE REQUIREMENTS

Findings	1
A. Prohibitions	4
B. Effluent Limitations	6
C. Provisions	6
D. Reporting Requirements	8
E. Notifications	11

MONITORING AND REPORTING PROGRAM

A. Monitoring Provisions	1
B. Effluent Monitoring	3
C. Annual Summary Report	4
D. Monitoring and Reporting Schedule	4

This California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

Facility Description

1. On March 15, 1993, this Regional Board adopted Order No. 93-33 for Sparkletts Drinking Water Corporation in Lakeside, San Diego County, for a discharge of up to 0.076 million gallons per day (MGD) of process waste water to a percolation pond.
2. In October 2003 the DS Waters of America, LP, Lakeside Bottling Plant was destroyed by fire. The discharger notified this Regional Board of its intent to rebuild a new facility identical to the original Lakeside Bottling facility to continue bottled water production, and the discharge of process wastewater to groundwater via a percolation pond. The discharger notified this Regional Board of its intent to request for an increase in the effluent flowrate.
3. DS Waters of America, LP proposes to discharge up to 0.1064 million gallons per day (MGD) of process wastewater to groundwater via the percolation pond.
4. The discharge percolation pond is located at 32° 53.5' North Latitude and 116° 56.3' West Longitude, adjacent to State Highway 67 about 2 miles north of Lakeside in the Santee Hydrologic Subarea (907.12) of the Lower San Diego Hydrologic Unit (907.10).
5. On January 15, 2004, this Regional Board informed the discharger to submit a complete Report of Waste Discharge as required by *Reporting Requirements* of Order No. 93-33 and to include operation and design features of the new facility.
6. On May 27, 2004, DS Waters of America submitted a Report of Waste Discharge in application for waste discharge requirements for the new, rebuilt, Lakeside Bottling Plant for the discharge process wastewater to a percolation pond.
7. The County of San Diego, as lead agency for purposes of compliance with the California Environmental Quality Act (CEQA), determined that the DS Waters of America reconstruction project is exempt from the requirements of CEQA pursuant to Title 14, Chapter 3, Article 18, Section 15269, *Emergency Projects*.
8. On June 7, 2004, this Regional Board deemed DS Waters of America's RWD dated May 27, 2004 as complete. This Regional Board also requested additional information and clarifications. DS Waters submitted the requested information on July 28, 2004.

Waste Discharge

9. DS Waters of America extracts groundwater from 960 feet below ground surface to produce bottled drinking water. The process wastewater is discharged to a percolation/evaporation pond. The constituents that are of concern are Total Dissolved Solids, Chloride, Sulfate and pH.
10. Table 1 provides a summary of the monitoring results of the groundwater and the wastewater impoundment from the previous Lakeside Bottling Plant from January 1990 through September 2003 as reported by the discharger and the Basin Plan Objectives for groundwater in the Santee Hydrologic Subarea:

Table 1

Constituent	Unit Concentration	Groundwater Average (for 4 wells)	Effluent Average	Basin Plan Objective***
Total Dissolved Solids	mg/l	1189	878	1000
Chloride	mg/l	313	239	400
Sulfate	mg/l	272	204	500
pH	units	5.7-8.7**	7.4	6.0-9.0*

*=within these limits at all times **= data range for all 4 wells ***=Groundwater objectives for the Santee Hydrologic Subarea (907.12)

11. The discharge of wastewater to land is not expected to adversely impact the Beneficial Uses and Water Quality Objectives of the groundwater within the Lower Santee Hydrologic Subarea. The quality of the wastewater is generally higher than that of the Water Quality Objective and higher than the existing groundwater quality.

Water Quality Objectives

12. The State Board has defined the term “sources of drinking water” in Resolution No. 88-63, *Sources of Drinking Water Policy*. The policy specifies that, except under specifically defined conditions, all surface and ground waters of the state are to be protected as existing or potential sources of municipal and domestic water supply.
13. The *Comprehensive Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) was adopted by this Regional Board on September 8, 1994 and approved by the State Board. Subsequent revisions to the Basin Plan have also been adopted by this Regional Board and approved by the State Board. The Basin Plan specifies beneficial uses and water quality objectives for surface and groundwater in the region. This Order specifies requirements necessary to meet the water quality objectives and to protect the beneficial uses.
14. The Basin Plan identifies the following existing beneficial uses for groundwater of the Lower Santee Hydrologic Subarea (907.12):

- a. Municipal and Domestic Supply
 - b. Agricultural Supply
 - c. Industrial Service Supply
 - d. Industrial Process Supply
15. The Basin Plan identifies the following existing beneficial uses for surface waters of the Lower Santee Hydrologic Subarea (907.12):
- a. Municipal and Domestic Supply (potential)
 - b. Industrial Service Supply
 - c. Water Contact Recreation
 - d. Non-Contact Water Recreation
 - e. Warm Freshwater Habitat
 - f. Cold Freshwater Habitat
 - g. Wildlife Habitat
 - h. Preservation of Rare and Endangered Species

Waste Discharge Impacts

16. Discharge of wastewater to land may not adversely impact Beneficial Uses and Water Quality Objectives of the groundwater within the Lower Santee Hydrologic Subarea. The quality of the wastewater is generally higher than that of the water quality objective and higher than that of the existing groundwater quality.

Regulatory Requirements

17. Pursuant to 40 CRF 131.12 and State Board Resolution No.68-16, *Statement of Policy With Respect to Maintaining High Quality of Waters in California* (collectively “Antidegradation Policies”), antidegradation analysis is not necessary since this Order is expected to protect existing beneficial uses. Water quality objectives and effluent limitations derived from the Basin Plan have been incorporated into the Order. Compliance with these limitation will ensure that water quality of the receiving water is maintained and protected and is not subject to degradation.
19. The County of San Diego, as lead agency for purposes of compliance with the California Environmental Quality Act (CEQA), determined that the DS Waters of America reconstruction project is exempt from the requirements of CEQA pursuant to Title 14, Chapter 3, Article 18, Section 15269, *Emergency Projects*.
20. This Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:
- a. The beneficial uses to be protected and the water quality objectives required to meet these beneficial uses;
 - b. Past, present and probable future beneficial uses of water;

- c. Environmental characteristics of the receiving water under consideration, including the quality of those receiving waters;
 - d. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area;
 - e. Economic considerations;
 - f. The need for developing housing within the region;
 - g. The need to prevent nuisance;
 - h. The need to develop and use recycled water; and
 - i. Other waste discharges
- (California Water Code (CWC) Section 13263 & 13241)
21. This Order shall be modified or revoked at any time if, on the basis of any data, this Regional Board determines that continued discharges may cause unreasonable degradation of the aquatic environment.
22. This Order does not preempt or supersede the authority of municipalities, flood control agencies, or other local agencies to further prohibit, restrict, or control discharges to sanitary sewer systems, or other watercourses subject to their jurisdiction.
23. This Regional Board has notified interested parties of its intent to issue waste discharge requirements for DS Waters of America, LP, Lakeside Bottling Plant and has provided them with an opportunity to submit their comments (CWC §13378 and 13384).
24. This Regional Board, in a public meeting, heard and considered all comments pertaining to waste discharge requirements for discharges of wastewater from DS Water of America, LP, Lakeside Bottling Plant.

IT IS HEREBY ORDERED, that DS Waters of America, LP, Lakeside Bottling Plant (hereinafter discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following requirements for discharges of waste from the Lakeside Bottling Plant.

A. PROHIBITIONS

- 1. The discharge of wastewater in excess of 0.1067 MGD in a calendar month is prohibited unless the discharger obtains revised waste discharge requirements for the proposed increased flow.
- 2. Discharge of wastes, including windblown spray and runoff of effluent applied for irrigation, to lands which have not been specifically described to this Regional Board and for which valid waste discharge requirements are not in force are prohibited.

3. Storage, use and or disposal of wastes in a manner that would result in ponding or surfacing of wastes on lands beyond the disposal area, as described in the findings of this Order, is prohibited.
4. The discharge of any radiological, chemical or biological warfare agent, or radioactive waste to waters of the United States is prohibited.
6. The discharge of wastewater shall not:
 - (a) Cause the occurrence of coliform or pathogenic organisms in surface impoundment waters;
 - (b) Cause the occurrence of objectionable tastes and odors in surface impoundment waters;
 - (c) Cause impoundment waters to foam;
 - (d) Cause the presence of toxic materials in surface impoundment waters;
 - (e) Cause the pH of surface impoundment waters to fall below 6.0 or rise above 9.0;
 - (f) Cause this Regional Board's objectives for the ground or surface waters of the Santee Hydrologic Subarea as established in the Basin Plan, to be exceeded;
 - (g) Cause odors, septicity, mosquitos or other vectors, weed growth or other nuisance conditions in any inland watercourse;
 - (h) Cause a surface flow recognizable as sewage in any inland watercourse; or
 - (i) Cause a pollution, contamination or nuisance or adversely affect beneficial uses of the ground or surface waters of the Santee Hydrologic Subarea as established in the Basin Plan.
7. The dumping or deposition of oil trash in any manner that may permit it to be washed into waters of the United States is prohibited.
8. Odors, vectors, and other nuisances of wastewater disposal beyond the limits of the plant site or disposal area are prohibited.
9. The discharge of waste in a manner other than as described in the findings of this Order is prohibited unless the discharger obtains revised waste discharge requirements that provide for the proposed change.

10. Waste water storage facilities shall be designed, constructed, operated, and maintained so as to prevent surfacing of wastes on property not owned or controlled by the discharger. Surface runoff of any wastes which surface on property owned or controlled by the discharger onto property not owned or controlled by the discharger shall be prevented.

B. DISCHARGE SPECIFICATIONS

The discharge of an effluent containing pollutants in excess of the following effluent limitations is prohibited:

Table 2: Effluent Limitations

Constituent	Units	Daily Maximum¹	12-Month Average²
Total Dissolved Solids	mg/l	1200	1000
Chloride	mg/l	500	400
Sulfate	mg/l	600	500
pH	Units	Within the limits of 6.0 to 9.0 at all times	

¹ The daily maximum effluent limitation shall apply to the results of a single grab sample.

² The 12-month average shall be the arithmetic mean, using the result of analysis of all samples collected during any calendar year period (January-December).

Discharge Specifications

1. All waste treatment, containment and disposal facilities shall be protected against 100-year peak stream flows as defined by the San Diego County flood control agency.
2. All waste treatment, containment and disposal facilities shall be protected against erosion, overland runoff, and other impacts resulting from a 100-year frequency 24-hour storm.
3. The discharger shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.
4. The discharger shall comply with Monitoring and Reporting Program No. R9-2004-0389, and future revisions thereto as specified by this Regional Board. Monitoring results shall be reported at the intervals specified in Monitoring and Reporting Program No. R9-2004-0389.

C. PROVISIONS

1. Neither the treatment nor the discharge of waste shall create a pollution, contamination or nuisance, as defined by Section 13050 of the California Water Code.
2. The discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.
3. In an enforcement action, it shall not be a defense for the discharger that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility fails, is reduced, or is lost.
4. The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
5. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - (a) Violation of any terms or conditions of this Order;
 - (b) Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
6. The filing of a request by the discharger for the modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
7. This Order is not transferrable to any person except after notice to this Regional Board. This Regional Board may require modification or revocation and reissuance of this Order to change the name of the discharger and incorporate such other requirements as may be necessary under the

California Water Code. The discharger shall submit notice of any proposed transfer of this Order's responsibility and coverage to a new discharger as described under *Reporting Requirement D.3*.

8. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state or local laws, nor create a vested right for the discharger to continue the waste discharge.
9. The discharger shall allow this Regional Board, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:
 - (a) Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - (d) Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.
10. A copy of this Order shall be maintained at DS Waters of America LP, Lakeside Bottling Plant, and shall be available to operating personnel at all times.
11. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

D. REPORTING REQUIREMENTS

1. The discharger shall file a new Report of Waste Discharge at least 120 days prior to the following:
 - (a) Addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the wastes.

- (b) Significant change in the treatment or disposal method (e.g., change in the method of treatment which would significantly alter the nature of the waste).
 - (c) Change in the disposal area from that described in the findings of this Order.
 - (d) Increase in flow beyond that specified in this Order.
 - (e) Other circumstances that result in a material change in character, amount, or location of the waste discharge.
 - (f) Any planned change in the regulated facility or activity that may result in noncompliance with this Order.
2. The discharger shall furnish to this Regional Board, within a reasonable time, any information which this Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The discharger shall also furnish to this Regional Board, upon request, copies of records required to be kept by this Order.
 3. The discharger must notify this Regional Board, in writing at least 30 days in advance of any proposed transfer of this Order's responsibility and coverage to a new discharger. The notice must include a written agreement between the existing and new discharger containing a specific date for the transfer of this Order's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on.
 4. Where the discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to this Regional Board, it shall promptly submit such facts or information.
 5. The discharger shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to this Regional Board within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. This Regional Board, or an authorized representative, may waive the written report on a case-by-case

basis if the oral report has been received within 24 hours. The following occurrence(s) must be reported to the Regional Board within 24 hours:

- (a) Any bypass from any portion of the treatment facility.
- (b) Any discharge of treated or untreated wastewater resulting from sewer line breaks, obstruction, surcharge or any other circumstances.
- (c) Any treatment plant upset which causes the effluent limitations of this Order to be exceeded.

6. All applications, reports, or information submitted to this Regional Board shall be signed and certified as follows:

- (a) The Report of Waste Discharge shall be signed as follows:
 - (1) For a corporation - by a principal executive officer of at least the level of vice-president.
 - (2) For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
 - (3) For a municipality, state, federal or other public agency - by either a principal executive officer or ranking elected official.
- (b) All other reports required by this Order and other information required by this Regional Board shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a) of this provision;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 - (3) The written authorization is submitted to this Regional Board.
- (c) Any person signing a document under this Section shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that

the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

7. The discharger shall submit reports required under this Order, or other information required by this Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340
Attention: Industrial Compliance Unit

E. NOTIFICATIONS

1. California Water Code Section 13263(g) states:

No discharge of waste into waters of the state, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the state are privileges, not rights.

2. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to Section 402 of the Clean Water Act.
3. The California Water Code, Section 13350, provides that any person who intentionally or negligently violates any waste discharge requirements issued, reissued, or amended by this Regional Board is subject to a civil monetary remedy of up to twenty dollars (\$20) per gallon of waste discharged or, if a cleanup and abatement order is issued, up to fifteen thousand dollars (\$15,000) per day of violation or some combination thereof.
4. The California Water Code, Section 13268, provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or falsifying any information provided in the monitoring reports is guilty of a misdemeanor.
5. This Order becomes effective on the date of adoption by this Regional Board.
6. The requirements prescribed by this Order supersede the requirements prescribed by Order No. 93-33. Order No. 93-33 is hereby rescinded when this Order becomes effective.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 10, 2004.

Tentative
JOHN H. ROBERTUS
Executive Officer